



राजपत्र, हिमाचल प्रदेश (असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, सोमवार, १७ अप्रैल, १९९५/२७ चैत्र, १९१७

हिमाचल प्रदेश सरकार

LAW DEPARTMENT
Legislation (English) Section

NOTIFICATION

Shimla-171002, the 6th February, 1995

No. LLR-E(9)8/95-Legislation.—The following Ordinances promulgated by the President of India and published in the Gazette of India (Extra-ordinary) part-II section-I, are hereby republished in the Himachal Pradesh Government Rajpatra (Extra-ordinary) for the information of the general public, namely :—

Sl. No.	Name of Ordinances	Date of promulgation	Date of publication in the Gazette
1.	The Cable Television Networks (Regulation) Ordinance, 1995 (Ordinance No. 3 of 1995).	17-1-1995	17-1-1995
2.	The Banking Companies (Acquisition and Transfer of Undertakings) Amendment Ordinance, 1995 (Ordinance No. 4 of 1995).	21-1-1995	21-1-1995

By order,

Sd/-
Secretary.

THE CABLE TELEVISION NETWORKS (REGULATION)

ORDINANCE, 1995

No. 3 OF 1995

Promulgated by the President in the Forty-fifth Year of the Republic of India.

AN Ordinance to provide for the regulation of the operation of the cable television networks in the country and for matters connected therewith or incidental thereto.

WHEREAS the Cable Television Networks (Regulation) Ordinance, 1994 to provide for the aforesaid matter was promulgated by the President on the 29th day of September, 1994;

AND WHEREAS the Cable Television Networks (Regulation) Bill, 1994 to replace the said Ordinance has been passed by the Council of States and is pending in the House of People;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 123 of the Constitution, the President is pleased to promulgate the following Ordinance :—

CHAPTER I

PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Cable Television Networks (Regulation) Ordinance, 1995.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 29th day of September, 1994.

2. *Definitions.*—In this Ordinance, unless the context otherwise requires,—

(a) “cable operator” means any person who provides cable service through a cable television network or otherwise controls or is responsible for the management and operation of a cable television network;

(b) “cable service” means the transmission by cables of programmes including re-transmission by cables of any broadcast television signals;

(c) “cable television network” means any system consisting of a set of closed transmission paths and associated signal generation control and distribution equipment, designed to provide cable service for reception by multiple subscribers;

(d) “company” means a company as defined in section 3 of the Companies Act, 1956 (1 of 1956);

(e) “person” means—

(i) an individual who is a citizen of India;

(ii) an association of individuals or body of individuals, whether incorporated or not, whose members are citizens of India;

(iii) a company in which not less than fifty-one per cent of the paid-up share capital is held by the citizens of India;

(f) "prescribed" means prescribed by rules made under this Ordinance;

(g) "programme" means any television broadcast and includes—

(i) exhibition of films, features, dramas, advertisements and serials through video cassette recorders or video cassette players;

(ii) any audio or visual or audio-visual live performance or presentation,

and the expression "programming service" shall be construed accordingly;

(h) "registering authority" means such authority as the Central Government may by notification in the Official Gazette, specify to perform the functions of the registering authority under this Ordinance;

(i) "subscriber" means a person who receives the signals of cable television network at a place indicated by him to the cable operator, without further transmitting it to any other person.

CHAPTER II

REGULATION OF CABLE TELEVISION NETWORK

3. *Cable television network not to be operated except after registration.*—No person shall operate a cable television network unless he is registered as a cable operator under this Ordinance :

Provided that a person operating a cable television network, immediately before the commencement of this Ordinance, may continue to do so for a period of ninety days from such commencement; and if he has made an application for registration as a cable operator under section 4 within the said period, till he is registered under that section or the registering authority refuses to grant registration to him under that section.

4. *Registration as cable operator.*—(1) Any person who is operating or is desirous of operating a cable television network may apply for registration as cable operator to the registering authority.

(2) An application under sub-section (1) shall be made in such form and be accompanied by such fee as may be prescribed.

(3) On receipt of the application, the registering authority shall satisfy itself that the applicant has furnished all the required information and on being so satisfied, register the applicant as a cable operator and grant to him a certificate of such registration:

Provided that the registering authority may, for reasons to be recorded in writing and communicated to the applicant, refuse to grant registration to him if it is satisfied that he does not fulfil the condition specified in clause (e) of section 2.

5. *Programme code.*—No person shall transmit or re-transmit through a cable service

any programme unless such programme is in conformity with the prescribed programme code :

Provided that nothing in this section shall apply to the programmes of foreign satellite channels which can be received without the use of any specialised gadgets or decoder.

6. *Advertisement code.*—No person shall transmit or re-transmit through a cable service any advertisement unless such advertisement is in conformity with the prescribed advertisement code:

Provided that nothing in this section shall apply to the programmes of foreign satellite channels which can be received without the use of any specialised gadgets or decoder.

7. *Maintenance of Register.*—Every cable operator shall maintain a register in the prescribed form indicating therein in brief the programmes transmitted or re-transmitted through the cable service during a month and such register shall be maintained by the cable operator for a period of one year after the actual transmission or re-transmission of the said programmes.

8. *Compulsory transmission of two Doordarshan channels.*—(1) Every cable operator using a dish antenna or Television Receive only shall, from the commencement of this Ordinance, re-transmit at least two Doordarshan channels of his choice through the cable service.

(2) The Doordarshan channels referred to in sub-section (1) shall be re-transmitted without deletion or alteration of any programme transmitted on such channel.

9. *Use of standard equipment in cable television network.*—No cable operator shall, on and from the date of the expiry of a period of three years from the date of the establishment and publication of the Indian Standard by the Bureau of Indian Standards in accordance with the provisions of the Bureau of Indian Standards Act, 1986 (63 of 1986); use any equipment in his cable television network unless such equipment conforms to the said Indian Standard.

10. *Cable television network not to interfere with any telecommunication system.*—Every cable operator shall ensure that the cable television network being operated by him does not interfere, in any way, with the functioning of the authorised telecommunication systems.

CHAPTER III

SEIZURE AND CONFISCATION OF CERTAIN EQUIPMENT

11. *Power to seize equipment used for operating the cable television network.*—(1) If any officer, not below the rank of a Group 'A' officer of the Central Government authorised in this behalf by the Government (hereinafter referred to as the authorised officer), has reason to believe that the provisions of section 3 have been or are being contravened by any cable operator, he may seize the equipment being used by such cable operator for operating the cable television network.

(2) No such equipment shall be retained by the authorised officer for a period exceeding ten days from the date of its seizure unless the approval of the District Judge, within the local limits of whose jurisdiction such seizure has been made, has been obtained for such retention.

12. *Confiscation.*—The equipment seized under sub-section (1) of section 11 shall be liable to confiscation unless the cable operator from whom the equipment has been seized registers himself as a cable operator under section 4 within a period of thirty days from the date of seizure of the said equipment.

13. *Seizure or confiscation of equipment not to interfere with other punishment.*—No seizure or confiscation of equipment referred to in section 11 or section 12 shall prevent the infliction of any punishment to which the person affected thereby is liable under the provisions of this Ordinance.

14. *Giving of opportunity to the cable operator of seized equipment*—(1) No order adjudicating confiscation of the equipment referred to in section 12 shall be made unless the cable operator has been given a notice in writing, informing him of the grounds on which it is proposed to confiscate such equipment and giving him a reasonable opportunity of making a representation in writing, within such reasonable time as may be specified in the notice against the confiscation and if he so desires of being heard in the matter :

Provided that where no such notice is given within a period of ten days from the date of the seizure of the equipment, such equipment shall be returned after the expiry of that period to the cable operator from whose possession it was seized.

(2) Save as otherwise provided in sub-section (1), the provisions of the Code of Civil Procedure, 1908 (5 of 1908), shall, so far as may be, apply to every proceeding referred to in sub-section (1).

15. *Appeal.*—(1) Any person aggrieved by any decision of the court adjudicating a confiscation of the equipment may prefer an appeal to the court to which an appeal lies from the decision of such court.

2. The appellate court may, after giving the appellant an opportunity of being heard, pass such order as it thinks fit confirming, modifying or revising the decision appealed against or may send back the case with such directions as it may think fit for a fresh decision or adjudication, as the case may be after taking additional evidence if necessary.

(3) No further appeal shall lie against order of the court made under sub section (2).

CHAPTER IV

OFFENCES AND PENALTIES

16. *Punishment for contravention of provisions of this Ordinance.*—Whoever contravenes any of the provisions of this Ordinance shall be punishable,—

(a) for the first offence, with imprisonment for a term which may extend to two years or with fine which may extend to one thousand rupees or with both;

(b) for every subsequent offence, with imprisonment for a term which may extend to five years and with fine which may extend to five thousand rupees.

17. *Offences by companies.*—(1) Where an offence under this Ordinance has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Ordinance has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any negligence on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director” in relation to a firm, means a partner in the firm.

18. *Cognizance of offences.*—No court shall take cognizance of any offence punishable under this Ordinance except upon a complaint in writing made by such officer, not below the rank of a Group ‘A’ officer of the Central Government, as the State Government may, by notification in the Official Gazette, specify in this behalf.

CHAPTER V

MISCELLANEOUS

19. *Power to prohibit transmission of certain programmes in public interest.*—Where an officer, not below the rank of a Group ‘A’ officer of the Central Government authorised by the State Government in this behalf, thinks it necessary or expedient so to do in the public interest, he may, by order, prohibit any cable operator from transmitting or re-transmitting any particular programme if it is likely to promote, on grounds of religion, race, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, linguistic or regional groups or castes or communities or which is likely to disturb the public tranquillity.

20. *Power to prohibit operation of cable television network in public interest.*—Where the Central Government thinks it necessary or expedient so to do in the public interest, it may prohibit the operation of any cable television network in such areas as it may, by notification in the Official Gazette, specify in this behalf.

21. *Application of other laws not barred.*—The provisions of this Ordinance shall be in addition to, and not in derogation of, the Drugs and Cosmetics Act, 1940 (23 of 1940), the Pharmacy Act, 1948, (8 of 1948), the Emblems and Names (Prevention of Improper Use) Act, 1950 (12 of 1950), the Drugs (Control) Act, 1950 (26 of 1950), the Cinematograph Act, 1952 (37 of 1952), the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954 (21 of 1954), the Prevention of Food Adulteration Act, 1954 (37 of 1954), the Prize Competition Act, 1955 (42 of 1955), the Copyright Act, 1957 (14 of 1957), the Trade and Merchandise Marks Act, 1958 (43 of 1958), the Indecent Representation of Women (Prohibition) Act, 1986 (60 of 1986), and the Consumer Protection Act, 1986 (68 of 1986).

22. *Power to make rules.*—The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Ordinance.

(2) In particular, and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely :—

- (a) the form of application and the fee payable under sub-section (2) of section 4;
- (b) the programme code under section 5;
- (c) the advertisement code under section 6;
- (d) the form of register to be maintained by a cable operator under section 7;
- (e) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this Ordinance shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive session aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

23. *Repeal and Savings.*—(1) The Cable Television Networks (Regulation) Ordinance, 1994 (Ord. 9 of 1994) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of this Ordinance.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secretary to the Government of India.

THE BANKING COMPANIES (ACQUISITION AND TRANSFER OF UNDERTAKINGS) AMENDMENT ORDINANCE, 1995

No. 4 OF 1995

Promulgated by the President in the Forty-fifth Year of the Republic of India.

An Ordinance further to amend the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 and the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

CHAPTER I

PRELIMINARY

1. *Short title and commencement.*—(1) This Ordinance may be called the Banking Companies (Acquisition and Transfer of Undertakings) Amendment Ordinance, 1995.

(2) It shall come into force at once.

CHAPTER II

AMENDMENTS TO THE BANKING COMPANIES (ACQUISITION AND TRANSFER OF UNDERTAKINGS) ACT, 1970

2. *Amendment of section 3.*—In section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), after sub-section (2B), the following sub-sections shall be inserted, namely:—

“(2BB) Notwithstanding anything contained in sub-section (2), the paid up capital of a corresponding new bank constituted under sub-section (1) may, from time to time and before any paid-up capital is raised by public issue under clause (c) of sub-section (2B), be reduced by

(a) the Central Government, after consultation with the Reserve Bank, by cancelling any paid-up capital which is lost, or is unrepresented by available assets;

(b) the Board of Directors, after consultation with the Reserve Bank and with the previous sanction of the Central Government, by paying off any paid-up capital which is excess of the wants of the corresponding new bank:—

Provided that in a case where such capital is lost, or is unrepresented by available assets because of amalgamation of another corresponding new bank or a corresponding new bank as defined in clause (b) of section 2 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980) with the corresponding new bank, such reduction may be done, either prospectively or retrospectively, but not from a date earlier than the date of such amalgamation.

(2BBA) (a) A corresponding new bank may, from time to time and after any paid-up capital has been raised by public issue under clause (c) of sub-section (2B), by resolution passed at an annual general meeting of the shareholders entitled to vote, voting in person, or, where proxies are allowed, by proxy, and the votes cast in favour of the resolution are not less than three times the number of the votes, if any, cast against the resolution by the shareholders so entitled and voting, reduce its paid-up capital in any way.

(b) Without prejudice to the generality of the foregoing power, the paid-up capital may be reduced by:—

(i) extinguishing or reducing the liability on any of its shares in respect of the share capital not paid-up;

(ii) either with or without extinguishing or reducing liability on any of its paid-up shares, cancelling any paid-up capital which is lost, or is unrepresented by available assets; or

(III) either with or without extinguishing or reducing liability on any of its paid-up shares paying off any paid-up share capital which is in excess of the wants of the corresponding new bank,

(2BBB) Notwithstanding anything contained in sub-section (2BB) or sub-section (2BB4), the paid-up capital of a corresponding new bank shall not be reduced at any time so as to render it below twenty-five per cent of the paid-up capital of that bank as on the date of commencement of the Banking Companies (Acquisition and Transfer of Undertakings) Amendment Ordinance, 1995".

CHAPTER III

AMENDMENTS TO THE BANKING COMPANIES (ACQUISITION AND TRANSFER OF UNDERTAKINGS) ACT, 1980

3. *Amendment of section 3.* In section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980), after sub-section (2B), the following sub-sections shall be inserted, namely :

"(2BB) Notwithstanding anything contained in sub-section (2), the paid-up capital of a corresponding new bank constituted under sub-section (1) may, from time to time and before any paid-up capital is raised by public issue under clause (c) of sub-section (2B), be reduced by :

(a) the Central Government, after consultation with the Reserve Bank, by cancelling any paid-up capital which is lost, or is unrepresented by available assets;

(b) the Board of Directors, after consultation with the Reserve Bank and with the previous sanction of Central Government, by paying off any paid-up capital which is in excess of the wants of the corresponding new bank :

Provided that in a case where such capital is lost, or is unrepresented by available assets because of amalgamation of another corresponding new bank or a corresponding new bank as defined in clause (d) of section 2 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970) with the corresponding new bank, such reduction may be done, either prospectively or retrospectively, but not from a date earlier than the date of such amalgamation.

(2BB4) (a) A corresponding new bank may, from time to time and after any paid-up capital has been raised by public issue under clause (c) of sub-section (2B), by resolution passed at an annual general meeting of the shareholders entitled to vote, voting in person or, where proxies are allowed, by proxy, and the votes cast in favour of the resolution are not less than three times the number of the votes, if any, cast against the resolution by the shareholders so entitled and voting, reduce its paid-up capital in any way.

(b) Without prejudice to the generality of the foregoing power, the paid-up capital may be reduced by :

(i) extinguishing or reducing the liability on any of its share in respect of share capital not paid-up;

(ii) either with or without extinguishing or reducing liability on any of its paid-up shares, cancelling any paid-up capital which is lost, or is unrepresented by available assets; or

(iii) either with or without extinguishing or reducing liability on any of its paid-up shares, paying off any paid-up share capital which is in excess of the wants of the corresponding new bank.

(2BBB) Notwithstanding anything contained in sub section (2BB) or sub-section (2BBA), the paid-up capital of a corresponding new bank shall not be reduced at any time so as to render it below twenty-five per cent of the paid-up capital of that bank as on the date of commencement of the Banking Companies (Acquisition and Transfer of Undertakings) Amendment Ordinance, 1995."

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secretary to the Government of India.